

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RODNEY DAVISON,

Plaintiff,

vs.

Case No. 05-70287-DT

DISTRICT JUDGE AVERN COHN
MAGISTRATE JUDGE STEVEN D. PEPE

C/O MACLEAN, C/O FRANTZ, C/O HERBERT,
SERGEANT D. WILLIAMS, DEPUTY CARBERRY,
DEPUTY SCOTT, WARDEN WOLFENBARGER,

Defendants.

/

ORDER AMENDING CASE CAPTION, EXTENDING SUMMONS AND
SEEKING ADDRESS UNDER SEAL OF C/O FRANZ

On February 3, 2005, Plaintiff filed a civil rights claim against C/O Maclean, C/O Frantz, C/O Herbert, Sergeant D. Williams, Deputy Carberry, Deputy Scott, and Warden Wolfbarger. On June 14, 2005, Judge Whalen ordered the U.S. Marshals to direct service of process on the Defendants without prepayment of costs and copies of the complaint were delivered to the U.S. Marshals for this purpose. The Marshal sent waivers of service under Fed. R. Civ. P. 4(d) on June 16, 2005. Executed waivers of service have now been received by Defendants Maclean, Herbert, Williams, Carberry, and Scott, and unexecuted waivers have been returned from Warden Wolfbarger and C/O Frantz. No formal appearances have been filed.

On August 17, 2005, Plaintiff filed a letter indicating that defendant Warden Wolfbarger's name was misspelled in the case caption, his name is actually spelled W-O-L-F-E-N-B-A-R-G-E-R, and requesting that the caption be amended. Accordingly, IT IS ORDERED that the case caption be

amended to read "*Rodney Davison v. C/O Maclean, C/O Frantz, C/O Herbert, Sergeant D. Williams, Deputy Carberry, Deputy Scott and Warden Wolfenbarger.*"

The clerk shall re-issue summons and the United States Marshal shall serve a copy of the appropriate papers upon defendant Warden Wolfenbarger, without prepayment of costs for such service.

The unexecuted waiver of service for C/O Franz indicates that C/O Franz is no longer employed by MDOC. The last known address of C/O Franz shall be submitted to the Court under seal, so that service can be made on C/O Franz by the United States Marshal's Service. The document containing C/O Franz's last known address shall remain under seal and shall not be incorporated into the record of this case. Further, any service or return of service documents shall not list the address at which C/O Franz is served or at which service was attempted. And, copies of the sealed document or service documents shall not be forwarded to Plaintiff.

Upon receipt of C/O Franz's last known address, the United States Marshal shall serve a copy of the appropriate papers upon defendant C/O Franz, without prepayment of costs for such service.

The summons in this matter was issued over 120 days ago. Therefore, pursuant to FED. R. CIV. P. 4(m), the summons shall be extended until October 24, 2005, and Plaintiff is ordered to effect service upon Warden Wolfenbarger and C/O Frantz in the manner prescribed in FED. R. CIV. P. 5 on or before October 24, 2005, or file a motion to show good cause why this could not be accomplished and propose a viable solution. Failure to comply will result in these defendants being dismissed without prejudice from this lawsuit.

Dated: August 29, 2005
Ann Arbor, Michigan

s/Steven D. Pepe
United States Magistrate Judge

Certificate of Service

I hereby certify that on August 29, 2005, I arranged for service as provided above and I electronically filed the foregoing order with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Diane Smith, and I further certify that I mailed a copy to the following non-ECF participant: Rodney Davison.

s/William J. Barkholz
Courtroom Deputy Clerk